

REMARKS

I. Preliminary Remarks

Upon entry of this amendment, claims 1-4, 8, 9, 11-17 are pending and claim 5 and claims 18-40 are canceled. Applicants reserve the right to pursue the subject matter of canceled claims in continuing applications.

Claims 1 and 6 have been amended to recite “recombinant human mannose binding protein (MBP).” Support for this amendment can be found, for example, at page 10, lines 36-37. Accordingly, no new matter has been added by the amendment to claims 1 and 6.

II. Submission of English Translation of Priority Document

Submitted herewith is an English translation of the foreign priority document (JP 2002-189534).

III. The rejection under 35 U.S.C. § 101 is moot.

The Examiner rejected claim 38 under 35 U.S.C. § 101 as assertedly being directed to non-statutory subject matter. Claim 38 has been canceled. Accordingly, the rejection is moot and should be withdrawn.

IV. The rejection under 35 U.S.C. § 102(b) should be withdrawn.

The Examiner rejected claims 1-17 and 38 under 35 U.S.C. § 102(b) as assertedly being anticipated by Ezekowitz et al. (J. Exp. Med., 169:186-196, 1989; hereinafter “Ezekowitz”). Applicants request reconsideration of the rejection in view of the amendments made herein and the following remarks.

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of Cal.*, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987); see also M.P.E.P. § 2131.

Ezekowitz does not anticipate the claimed subject matter. Amended claim 1 recites “recombinant human mannose binding protein (MBP).” Ezekowitz discloses that human MBP purified from human plasma from patients undergoing plasmapheresis can

inhibit HIV infection of H9 lymphoblasts. Ezekowitz does not disclose or suggest **recombinant human** MBP or disclose or suggest its use as an anti-HIV agent. Moreover, because the MBP recited in claim 1 is recombinant, the claim recited anti-HIV-agent would be free of other plasma proteins present in the compositions disclosed by Ezekowitz. Accordingly, Ezekowitz does not anticipate claim 1 or any claim dependent thereon. Therefore, the rejection should be withdrawn.

V. Conclusion

In view of the above amendment, Applicant believes the pending application is in condition for allowance. If the Examiner believes that a telephone conversation would expedite allowance of the claims, she is invited to contact the undersigned agent or David A. Gass, Attorney for Applicants, at the number below.

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Respectfully submitted,

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